



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

NORTH GARLAND SURGERY CENTER

Respondent Name

HARTFORD FIRE INSURANCE COMPANY

MFDR Tracking Number

M4-16-1441-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

January 29, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This devices intensive claim was billed requesting the procedures be paid at the service portion rate with separate reimbursement for implants plus interest . . . In this case our cost was \$26920.00 for the implanted items and the implant should be paid at cost plus \$2000.00."

Amount in Dispute: \$30520.02

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Additional payment issued for implants in the amount of \$1214.13. . . . Additional reimbursement for CPT 63685 is not recommended as under Medicare this service is not device portion allowable when separately reimbursable implants are requested."

Response Submitted by: The Hartford

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 16, 2015	Ambulatory Surgery with Separately Paid Implantables, Procedure Codes: 63685, L8687	\$30,520.02	\$1,933.62

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.402 sets out the medical fee guideline for ambulatory surgery centers.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 97 – PAYMENT ADJUSTED BECAUSE THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED.
 - 170 – REIMBURSEMENT IS BASED ON THE OUTPATIENT/INPATIENT FEE SCHEDULE.

- 243 – THE CHARGE FOR THIS PROCEDURE WAS NOT PAID SINCE THE VALUE OF THIS PROCEDURE IS INCLUDED/BUNDLED WITHIN THE VALUE OF ANOTHER PROCEDURE PERFORMED.
- 983 – CHARGE FOR THE PROCEDURE EXCEEDS MEDICARE ASC SCHEDULE ALLOWANCE.
- P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT
- 4123 – ALLOWANCE IS BASED ON TEXAS ASC DEVICE INTENSIVE PROCEDURE CALCULATION AND GUIDELINES.
- 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. THIS CLAIM WAS PROCESSED PROPERLY THE FIRST TIME.
- 1014 – THE ATTACHED BILLING HAS BEEN RE-EVALUATED AT THE REQUEST OF THE PROVIDER. BASED ON THIS RE-EVALUATION WE FIND OUR ORIGINAL REVIEW TO BE CORRECT THEREFORE, NO ADDITIONAL ALLOWANCE APPEARS TO BE WARRANTED.
- 11 – THE RECOMMENDED ALLOWANCE FOR THE SUPPLY WAS BASED ON THE ATTACHED INVOICE.
- W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION

Issues

1. What is the recommended reimbursement for the disputed surgical services and implantable items?
2. Is the requestor entitled to additional reimbursement?

Findings

1. This dispute regards ambulatory surgical services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.402(f), which requires that the calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 Federal Register, or its successor.

The following minimal modifications apply:

- (1) Reimbursement for non-device intensive procedures shall be:
 - (A) The Medicare ASC facility reimbursement amount multiplied by 235 percent; or
 - (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of:
 - (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and
 - (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent.
- (2) Reimbursement for device intensive procedures shall be:
 - (A) the sum of:
 - (i) the ASC device portion; and
 - (ii) the ASC service portion multiplied by 235 percent; or
 - (B) If an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the device intensive procedure shall be the sum of:
 - (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and
 - (ii) the ASC service portion multiplied by 235 percent.

Reimbursement is calculated as follows:

- Procedure code 63685, service date June 16, 2015, has status indicator J8 denoting a device-intensive procedure reimbursed in accordance with Rule §134.402(f)(2). Per Addendum AA, the payment rate for this procedure is \$20,813.64. This amount is divided in two halves, representing the labor-related and non-labor-related portions of \$10,406.82 each. The labor-related half is geographically adjusted by multiplying it by the annual wage index for this facility's location of 0.9703. The adjusted labor portion is \$10,097.74. This amount is added back to the non-labor half. The sum is the Medicare ASC facility rate of \$20,504.56. This procedure is not subject to multiple procedure discounting. The device-offset

percentage of 0.8700 (from Medicare's Table of ASC Designated Device-Intensive Procedures) is multiplied by the OPPS rate for this procedure code, as listed in Addendum B of \$26,162.39, yielding an ASC device portion of \$22,729.88. This amount is subtracted from the facility rate, leaving a negative service amount of -\$2,225.32. This amount multiplied by the Division conversion factor of 235% is -\$5,229.50.

- Procedure code 63663, service date June 16, 2015, has status indicator J8 denoting a device-intensive procedure reimbursed in accordance with Rule §134.402(f)(2). Per Addendum AA, the payment rate for this procedure is \$3,837.66. This amount is divided in two halves, representing the labor-related and non-labor-related portions of \$1,918.83 each. The labor-related half is geographically adjusted by multiplying it by the annual wage index for this facility's location of 0.9703. The adjusted labor portion is \$1,861.84. This amount is added back to the non-labor half. The sum is the Medicare ASC facility rate of \$3,780.67. This procedure is not subject to multiple procedure discounting. The device-offset percentage of 0.5600, from Medicare's Table of ASC Designated Device-Intensive Procedures, is multiplied by the OPPS rate for this procedure code as listed in Addendum B of \$5,290.65, yielding an ASC device portion of \$2,975.99. This amount is subtracted from the facility rate, leaving the service portion of \$804.68. This amount multiplied by the Division conversion factor of 235% is \$1,891.00.
- Procedure code 95972, service date June 16, 2015, represents electronic analysis of an implanted neurostimulator pulse generator system. Per Medicare payment policy, this procedure is a non-surgical service that is not covered when performed in an ambulatory surgery center. Per 28 Texas Administrative Code §134.402(i), If Medicare prohibits a service from being performed in an ASC setting, the insurance carrier, health care provider, and ASC may agree, on a voluntary basis, to an ASC setting if criteria are met as described in the rule; however, no documentation was presented to support an agreement between the parties to allow an ASC setting for this procedure in accordance with the requirements of the rule. Consequently, additional reimbursement cannot be recommended.
- Procedure code L8687, service date June 16, 2015, represents a spinal cord stimulator RestoreSensor SureScan MRI Medtronic implantable device. Review of the submitted documentation finds certification to support that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable items in accordance with the requirements of 28 Texas Administrative Code §134.402(g)(B). The submitted invoices support that the cost to the provider was \$21,950.00 for the base item plus two extension kits at \$695.00 each (\$1,390.00) for a total cost to the provider of \$23,340.00
- Procedure code L8681, service date June 16, 2015, represents a patient programmer (external) for use with implantable programmable neurostimulator pulse generator, which per §134.402(b)(5)(E), the meaning of "Implantable" includes: "related equipment necessary to operate, program, and recharge the implantable." Code L8681 meets the definition of related equipment necessary to operate the neurostimulator, and is therefore reimbursable separately as an implantable item. The invoices support cost to the provider for the programmer of \$1,190.00.
- Procedure code L8689, service date June 16, 2015, represents an external recharging system for battery (internal) for use with implantable neurostimulator, which per §134.402(b)(5)(E), also meets the definition of related equipment necessary to recharge the implantable, and is therefore itself reimbursable separately as an implantable item. The invoices support cost to the provider for the programmer of \$2,390.00.
- the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission, exceeds the \$2,000 add-on limit for the total of all implantable items; therefore, the total allowable add-on amount for this admission is \$2,000.00.

2. The total allowable reimbursement for the services in this dispute is \$25,581.50. The insurance carrier has paid \$ 23,647.88. The amount due to the requestor is \$1,933.62.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,933.62.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,933.62, plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

_____	Grayson Richardson	August 24, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.